

UNITED STATE DEPARTMENT OF COMMERCE United States Paront and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		A	TTORNEY DOCKET NO.
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745 FIFTH				ART UNIT	PAPER NUMBER
NEW YORK N	Y 10151			1651	4
				DATE MAILED:	04/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary Examiner		Application No.	Applicant(s)
Examiner Ruth A Davis The MAILING DATE of this communication appears on the cover sheet with the correspondence address— Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified shore is less than thirty (30) days, a reply which he stautory minimum of thirty (30) days will be considered shrely. If the period for reply specified shore is less than thirty (30) days, a reply which he stautory minimum of thirty (30) days will be considered shrely. If the period for reply specified shore is less than the period day with the stautory minimum of thirty (30) days will be considered shrely. If the period for reply specified shore is less than the more months after the mailing date of his communication. A prior properties of the Office start than three months after the mailing date of his communication, even it days (14) a.C. g. 140). Responsive to communication(s) filled on	·-		
Examiner Ruth A Davis 151	Office Action Summary		
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provision of 30°CF4 1.136 (a). In no event, however, may a reply be timely filed after SIX (b) MONTHS from the making date of this communication. Fallure to reply within the state of the communication. Fallure to reply within the state of reply in the provision of the control of reply in the provision of reply in the state of this communication. Fallure to reply within the state or extended period for reply will be a statutely prevent will adopt any will exist for whe making date of this communication. Fallure to reply within the state or extended period for reply will be provided by the Ches leads then there emorial state the making date of this communication. Fallure to reply within the state of this communication of the provision of the state of the communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. Fallure to reply within the state of this communication. This action is FINAL. State of this communication. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claims Claims Claims Claims Fallure to reply within the state of the communication is non-final. Since this accident is a state of the application for merits is closed of the sometiment of the communication. Fallure to reply within the state of the communication. Fallure to reply within the state of this c	The MAILING DATE of this communication ap Period for Reply	ppears on the cover sheet with the c	orrespondence address
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4) Claim(s) 1-13 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claims 1-13 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are objected to by the Examiner. 11) The proposed drawing correction filed on is: a) approved b) disapproved. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. § 119 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).			
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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1 6, drawn to a stable suspension, classified in class 424, subclass 94.1,
 for example.
 - II. Claims 7 13, drawn to a method to make a stabilized suspension, classified in class 435, subclass 188, for example.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process could be used to make other materially different products such as fruit juice, trypson broth, fertilizers or intravenous nutritional drips.

The several inventions above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches (as indicated by the different classification). The search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further, a reference which would anticipate the invention of one group would not necessarily anticipate or even make obvious another group.

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Because these inventions are distinct for the reasons given above and the search required for one group is not required for the other groups, restriction for examination purposes as indicated is proper.

3. A telephone call was made to Jerome Rosenstock on March 15, 2001 and March 20, 2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth A Davis whose telephone number is 703-308-6310. The examiner can normally be reached on M-H (7:00-4:30); altn. F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 703-308-4743. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

March 26, 2001

LEUN B. LANKFORD, JR. PRIMARY EXAMINER